

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/089,501	SAITO ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	FOZIA HAMUD	1647

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed on 04/11/2011.
2. ☒ The allowed claim(s) is/are 60-62, (now renumbered 1-3, respectively).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\* c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. <input type="checkbox"/> Notice of References Cited (PTO-892)	5. <input type="checkbox"/> Notice of Informal Patent Application
2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____.
3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____	7. <input type="checkbox"/> Examiner's Amendment/Comment
4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material	8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance
	9. <input type="checkbox"/> Other _____.

### **DETAILED ACTION**

1a. Receipt of Applicants' amendment and arguments, filed on 11 April 2011 is acknowledged.

#### ***Status of Claims:***

1b. Claims 60-62 are pending and under consideration.

#### ***Priority:***

3a. This application, filed 4/22/2002 claims priority to PCT/JP00/06802, filed 9/29/2000, therefore the instant invention has been granted a priority date of 9/29/2000.

#### ***Foreign Priority:***

3b. Applicants have perfected their foreign priority, because they have filed a translation of Application Number: 11-282134, in accordance with 37 CFR 1.55. See MPEP § 201.15. This application supports the claimed invention, because it discloses the claimed antibodies, (see SEQ ID NO:28, 58, 87 and 97). Thus the instant invention is afforded the effective filing date of 01 October 1999.

#### ***Reasons for Allowance:***

2. The rejection of claims 60-62 made under 35 U.S.C. 102 (e) as being anticipated by Sato ET al (U.S. Patent 6,677,436), is withdrawn.

Applicants' argument that the instant application has an effective filing date of October 1, 1999, because of the Applicants' submission of the certified English translation of Japanese priority document, Japanese Patent Application No. 11- 282134, has been found persuasive. The heavy and light chains of the antibody administered in

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the claimed method, (i.e. SEQ ID NO:29, 88, 59 and 99) are disclosed in the translated foreign document, (see for example SEQ ID NO:28, 87 and 97, respectively).

Furthermore, Applicants' argument that the '436 patent is not a proper reference under 35 U.S.C. § 102 (e), because it has an effective filing of September 29, 2000, is also found persuasive. The '436 patent is a national stage application of PCT/JP1999/001768, published as WO 99/51743 on 14 October 1999, (i.e., before the current law's effective date of November 29, 2000). Thus, the '436 patent is afforded the filing date of US. Application 09/647,468, filed September 29, 2000.

***Conclusion:***

6. Claims 60-62, (now renumbered 1-3, respectively) are allowed.

***Advisory Information:***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FOZIA M. HAMUD whose telephone number is (571)272-0884. The examiner can normally be reached on Monday-Friday: 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery J. Stucker can be reached on (571) 272-0911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fozia Hamud  
Patent Examiner  
Art Unit 1647  
28 June 2011

/Bridget E Bunner/  
Primary Examiner, Art Unit 1647